

# **EXHIBIT C**

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3 -----x

4 IN RE: GENERAL MOTORS LLC  
5 IGNITION SWITCH LITIGATION,

6 14 MD 2543 (JMF)

7 New York, N.Y.  
8 August 11, 2017  
9 9:00 a.m.

10 Before:

11 HON. JESSE M. FURMAN,

12 District Judge

13 APPEARANCES

14 LIEFF CABRASER HEIMANN AND BERNSTEIN LLP

15 BY: ELIZABETH JOAN CABRASER

16 -AND-

17 HAGENS BERMAN SOBOL SHAPIRO LLP (SEATTLE)

18 BY: STEVE W. BERMAN

19 -AND-

20 HILLIARD MUÑOZ GONZALES LLP

21 BY: ROBERT HILLIARD

22 -AND-

23 BROWN RUDNICK

24 BY: HOWARD STEEL

25 Attorneys for Plaintiffs

KIRKLAND & ELLIS LLP

BY: RICHARD CARTIER GODFREY

ROBERT C. BROCK

ANDREW B. BLOOMER

ALLAN PIXTON

-AND-

KING & SPALDING

BY: ARTHUR J. STEINBERG

Attorneys for Defendant General Motors L.L.C.

1 want to give yourselves a little more time on some of the  
2 things, that's fine with me. If you have any proposed  
3 modifications, why don't you talk about them to each other, and  
4 we'll go from there.

5 Next is supplemental briefing on successor liability.  
6 Sorry to give you more briefing. I'm sorry to give myself more  
7 briefs to read. As you can see, I thought it was appropriate  
8 for a couple reasons.

9 Without intimating whether I agree with the  
10 plaintiffs' characterization of New GM's proposal as a fishing  
11 tactic or not, I am inclined to agree with plaintiffs that it's  
12 unnecessary to proceed in the manner that GM has proposed and  
13 likely only to result in more delay, given the arguments made  
14 by GM thus far, and they're summarized a bit in the agenda  
15 letter but the portion attributable to the plaintiffs, but  
16 certainly the arguments that have been made to me thus far.

17 I don't quite understand why we would need to proceed  
18 in that manner and why GM couldn't make the arguments that it  
19 thinks are to be made based on the information that it  
20 currently has.

21 I think it would make more sense to stick with the  
22 current plan, which is simultaneous briefing by August 24 with  
23 the understanding, perhaps, or the caveat that New GM or the  
24 plaintiffs, for that matter, could always seek leave to file a  
25 supplemental brief, that is, supplemental supplemental brief.

1           If there is something in the declarations that are  
2 filed in the first instance that changes the situation in some  
3 material way, I think that enables us to stick with the current  
4 schedule but allows GM, if it learns something from the factual  
5 declarations that are filed that it changes things in some  
6 meaningful way, it gives New GM an opportunity to tell me what  
7 that is. I would think that that would be a better way to  
8 proceed. That's what I would propose.

9           Thoughts. No thoughts?

10          MR. GODFREY: I have thoughts. I thought Mr. Berman  
11 was going to say something.

12          THE COURT: It looks like he is.

13          MR. BERMAN: I am. On Wednesday we informed General  
14 Motors that we plan on presenting papers in the bankruptcy  
15 court next week, perhaps as early as Tuesday, that would ask  
16 the bankruptcy court to issue a claims estimation order  
17 pursuant to the sale agreement.

18          And under the sale agreement, your Honor, the Guc  
19 Trust has the authority to go to the bankruptcy court and to  
20 compromise claims. In the event the Guc Trust makes a  
21 determination that claims exceed \$35,000,000, to ask the Court  
22 to issue an estimation order that would require New GM to issue  
23 stock that would be put into an account for the benefit of,  
24 actually, our class.

25          And pursuant to that estimation order, we're going to

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1 ask the bankruptcy court to issue that order which would  
2 require GM to put up stock that's worth roughly a little over  
3 \$1,000,000,000.

4 THE COURT: Correct me if my understanding of this is  
5 wrong. I take it this is the so-called "accordion feature";  
6 that essentially the estimation order would trigger the  
7 accordion feature?

8 MR. BERMAN: That's correct.

9 THE COURT: This might be what Mr. Godfrey was fearing  
10 would be the --

11 MR. BERMAN: Yes. We gave GM a heads-up, as I said,  
12 this week. I don't think that this changes your briefing idea  
13 because the fact of the matter is that you recognize the  
14 positions New GM has taken with respect to successor liability.  
15 We're not going to have a resolution of this proposed  
16 settlement. I suspect that GM is not going to just quietly  
17 agree to issue \$1,000,000,000 worth of stock.

18 THE COURT: I'm pretty confident in sharing that  
19 prediction.

20 MR. BERMAN: I'm also pretty confident that the sale  
21 agreement actually gives GM no rights to object, but we'll  
22 fight that out.

23 THE COURT: I intimate no view on that.

24 MR. BERMAN: So I think that we should continue with  
25 the briefing, but I wanted to give the Court a heads-up that

2 THE COURT: I appreciate that heads-up. I think, if  
3 anything -- I understand from the grumpy looks at the back  
4 table that you're not happy about the accordion feature issues  
5 here. Those are not my concern, at least in the  
6 first instance.

7 I think to the extent that these implicate me, that  
8 suggests to me that you'll have the information before the  
9 deadline that I've imposed, and we can just proceed as I had  
10 already planned.

11 Any reason otherwise, with the caveat, I suppose,  
12 Mr. Godfrey and Mr. Bloomer, that if upon seeing what  
13 plaintiffs file on Tuesday, you need additional time to sort  
14 through what it all means, that you can always seek a  
15 reasonable extension, and I would consider it. Obviously the  
16 sooner we can get briefing, the better, as far as I'm  
17 concerned.

18 Your thoughts. I don't want to hear your thoughts on  
19 the accordion feature issue. You'll have plenty of  
20 opportunity, I'm sure, to air those, whether you have any right  
21 to or not. I'm sure you'll make those arguments but not to me,  
22 at least in the first instance.

23 Any issues with what I have said on the successor  
24 liability issues before me?

25 MR. GODFREY: Well, both issues are going to be before

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1 your Honor. Let me address the first issue, which is the

2 successor liability briefing.

3 I think, in light of what your Honor has said with  
4 respect to the option of having supplemental briefing if we  
5 deem it necessary, then that is acceptable to New GM.

6 With respect to the second issue though, I have some  
7 points that your Honor -- this is a marker. This is not going  
8 to be in the bankruptcy court.

9 At my age, I'm seldom surprised, and I'm never  
10 shocked. But a day and a half ago, I was both surprised and  
11 shocked when we were given a bare-bones description of this  
12 settlement agreement.

13 This is not a compromise by the Guc Trust or the  
14 plaintiffs' claims in the bankruptcy court. This is a complete  
15 surrender and sellout using GM's money to pay for a settlement  
16 that was not defended against, claims that were meritless that  
17 were asserted.

18 Let me express, in no uncertain terms, how we view the  
19 proposal.

20 THE COURT: Let me stop you, only because I want to  
21 get out of here as I suggested. I don't mean to cut you off  
22 and not give you an opportunity to be heard on this, but I  
23 don't think this is the time or place to do it.

24 You'll have plenty of opportunity in the  
25 first instance, I would think in front of the bankruptcy court,

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1 even if it's ultimately an issue that I'll need to resolve or

2 even some higher court.

3 Am I wrong about that?

4 MR. GODFREY: Yes. We are going to file a motion to

5 withdraw as soon as permissible, withdraw the reference from

6 the bankruptcy court and this court.

7 The notion that they can settle for no material money

8 from the Guc Trust -- the Guc Trust has \$400,000,000 in assets.

9 They're getting \$15,000,000, as we understand it, assigning

10 rights, agreeing to a \$10,000,000,000 claim. And supposedly GM

11 has no rights when they take a billion dollars of our money.

12 That is not going to stand. We're going to withdraw

13 the reference. We're going to bring it to the Court. This is

14 collusive. There are cases on point that we can refer the

15 Court to.

16 This has got all the indicia of a collusive

17 settlement. They are awaiting a time-barred defense. We have

18 no idea upon what basis and what expert the Guc Trust had,

19 which I doubt, by which they are not contesting \$10,000,000,000

20 in claims.

21 And that is the trigger mechanism by which they claim

22 New GM has no choice but putting up a billion dollars. That is

23 not going to happen without this Court hearing and ruling on

24 the issues.

25 We have unfairness issues. We have the indicia of

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1 collusive issues. We have the fact that General Motors has  
2 been excluded. And you heard this morning that supposedly we  
3 have no rights to even object. I don't think that in our  
4 country when someone is told to give a billion dollars to  
5 someone else, we have some rights to object, including notice  
6 and opportunity to be heard.

7                   So, from a marker perspective, we're going to file a  
8 motion. We're going to brief the motion. We're going to  
9 attack the settlement, and it's going to be before your Honor.  
10 We're going to do it as soon as we can permissibly do it.

11                  THE COURT: The marker is laid. I'll look for the  
12 motion. The question is your arguments seem to me to be more  
13 geared towards the merits of the issue than the forum in which  
14 it should be litigated, at least in the first instance.

15                  In proposing that the reference be withdrawn may be  
16 the fact that it's a collusive agreement, if it is -- I  
17 intimate no view on the matter -- is a factor to consider in  
18 that analysis.

19                  The question that occurs to me, thinking out loud, is  
20 why you can't make those arguments to the bankruptcy court in  
21 the first instance, recognizing that they may ultimately come  
22 to me.

23                  MR. GODFREY: That's a good question. Since  
24 your Honor said I should keep this short, but there is an  
25 answer to that.

1                   THE COURT: I trust the answer will be clear from your  
2 motion.

3                   MR. GODFREY: It will be very clear, but we can talk  
4 about this further in the motion. One simple point for  
5 your Honor to consider. This is on behalf of a putative class,  
6 among other things.

7                   Your Honor has got the class before the court. This  
8 Court is going to decide Rule 23 issues, not the bankruptcy  
9 court and not some quasi class which has the same implications.

10                  This has come up before in other cases where the court  
11 has said, no. That's the MDL's court's purview we think. So  
12 there is significant overlap between the issues, both in terms  
13 of the merits of the claims and the class issues and in terms  
14 of notice issues that this Court has the jurisdiction over and  
15 that this Court should have the primary role over.

16                  So we will lay this out for the Court, but make no  
17 mistake. General Motors objects to this. We believe that it's  
18 brought an indicia of collusiveness. Frankly, what the few  
19 facts we were told are, they've got \$400,000,000 in assets from  
20 the Guc Trust for \$15,000,000.

21                  They are released from all liability for this alleged  
22 \$10,000,000 claim, and General Motors is supposed to put up a  
23 billion dollars to make it all right. General Motors has been  
24 excluded from the settlement negotiations and had no knowledge  
25 of the terms of the settlement negotiations.

1           If you look at the terms of the accordion feature, we  
2 don't believe that they can do this.

3           THE COURT: Understood. I will look for it. If you  
4 want to discuss with each other a briefing schedule for that  
5 motion, you're certainly welcome to, and you can propose it to  
6 me.

7           In the absence of that, it sounds like GM is planning  
8 to file the motion at some point soon regardless. Unless and  
9 until I see otherwise, the local rules and default schedule  
10 will apply.

11           As for the successor liability briefing, we'll stick  
12 with the existing plan with the understanding that if there is  
13 need for supplemental supplemental briefing, that is to say,  
14 another round, then you'll let me know.

15           I want to say two notes on that. That is not to give  
16 you an opportunity to reply. I am contemplating simultaneous  
17 briefing. So I would grant an additional round of briefs only  
18 if there is something new learned from the submissions on that  
19 date that changes things in some material fashion that you  
20 think you need to address. It's not an opportunity to reply to  
21 the other side's arguments.

22           The second is that I'm not going to set a deadline  
23 right now for that additional briefing or page limits for that  
24 matter because I'm hoping and assuming that it won't be  
25 necessary.

1           I do caution you that you're not going to have a lot  
2 of time and you're not going to have a lot of pages. If you do  
3 propose another set of briefs, keep both of those in mind.

4           MR. GODFREY: I think we understood that, your Honor.  
5 At this point, I think we understand your views on supplemental  
6 briefing.

7           THE COURT: Good.

8           Let me also just say on the briefs that you will be  
9 filing in the next couple weeks on this front, I would endeavor  
10 to make them, as much as you can, sort of standalone briefs,  
11 that is to say, on the one hand, you don't need to waste time  
12 on the preliminaries, the background, etc.

13           I know what the issues are. I have obviously  
14 addressed a lot of the issues in the opinion that I handed down  
15 a week or so. You can cut to the chase and brief the issues  
16 under that law, as I indicated, and address the effects, if  
17 any, of the settlement with the Guc Trust.

18           Having said that, to the extent you can write it so  
19 that my clerks and I don't need to keep looking back at the  
20 prior set of briefs, that would be helpful for two reasons.

21           One is, as I'm going to tell you in a minute or two,  
22 today is Ms. Kumar's last day with me. Actually, last Friday  
23 was. She's actually just done me the courtesy of coming to  
24 this to make things easier in transitioning.

25           She helped me on that motion and won't be around when

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1 your supplemental briefs come in, which is to say that I'll  
2 have another clerk without the same institutional memory and  
3 background on this helping me.

4                 The second is while I certainly have read all the  
5 materials, it will be several months basically since I have  
6 done so. The less that I have to go back and reread things,  
7 the better. I would just ask you to keep those in mind in  
8 terms of how you write those briefs.

9                 MR. GODFREY: Your Honor, I have a question on that.  
10 Would it be helpful for us, if we are referring back to another  
11 brief, to just attach as an exhibit the selected pages from  
12 that brief?

13                 THE COURT: Yes. I think that would be helpful  
14 actually.

15                 MR. GODFREY: I think we'll do that, if that's  
16 acceptable to the Court.

17                 THE COURT: I think that is. Otherwise, leave my  
18 remarks standing. I gave you my guidance, but that would be  
19 helpful, if you think it's necessary.

20                 MR. GODFREY: Thank you.

21                 THE COURT: Settlement.

22                 Mr. Berman, did you have something else you wanted to  
23 add?

24                 MR. BERMAN: Yes. We've been silent at the front  
25 table with respect to Mr. Godfrey's comments.